

The background of the title page features a large, faint, circular seal of the State of Utah. The seal contains an eagle with spread wings perched atop a shield. The shield has the word "INDUSTRY" at the top and "1847" at the bottom. The outer ring of the seal reads "THE GREAT SEAL OF THE STATE OF UTAH" and the year "1896" is at the bottom.

Utah

Department of Commerce

FY2003 Annual Report

July 1, 2002 – June 30, 2003

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Utah Department of Commerce

Mission Statement

**To protect the public interest by ensuring fair
commercial and professional practices**

Executive Director's Report

October 2003

To The Citizens of Utah:

I am pleased to present the fiscal year 2003 Annual Report for the Utah Department of Commerce. This report highlights the Department's accomplishments in fulfilling its mission of facilitating commerce and protecting the public via professional and commercial standards. As dictated by the Utah Legislature, this mission is accomplished through licensing of individuals to ensure basic competencies and registration of businesses so that consumers can obtain information regarding people with whom they conduct commercial transactions. Our mission is further achieved through enforcement, advocacy and consumer education.

The Department is comprised of approximately 250 employees within the following divisions:

- **Administration**
- **Division of Consumer Protection**
- **Division of Corporations & Commercial Code**
- **Division of Occupational & Professional Licensing**
- **Division of Public Utilities, including the Committee of Consumer Services**
- **Division of Real Estate**
- **Division of Securities**

This year's report details an impressive amount of work by Commerce employees and various boards, commissions and advisory committees. In most cases, statistics reflect increased workloads throughout the Department. We attempt to manage that growth, while at the same time improving customer service, through the addition of new and improved online access for license renewals, business registrations and public information.

Department of Commerce employees are proud of their contributions toward making Utah a great place to live and do business. Thank you for your interest in our mission, operations and accomplishments.

Sincerely,

Klare Bachman
Executive Director

Committee of Consumer Services

The Utah Committee of Consumer Services, a State agency within the Utah Department of Commerce, celebrated its 25th Anniversary on 1 July 2002. The Committee was created by the 1977 General Session of the Utah Legislature to represent the interests of residential and small commercial utility customers.

It is conservatively estimated that the Committee's activities over its first quarter century saved Utahns more than \$1 billion. The Utah Chapter of the American Society for Public Administration presented its 2003 Board and Commission Award of Excellence to the Committee in appreciation for its outstanding service.

During the fiscal year, July 2002 to June 2003, the Committee considers that its efforts have saved utility customers an additional \$46M. The Committee worked to ensure safe, reliable and reasonable service in electricity, natural gas and telecommunications.

Electricity

- In the fall of 2002, PacifiCorp (which operates as Utah Power) sought a \$3.75 million annual increase in depreciation costs. The Committee was instrumental in saving customers \$9.65 million a year from January 2004. The Committee argued for a decrease, based mostly on lower estimates of the cost of taking plant out of service at the end of its economic life, and a reduction of \$5.9M was agreed.
- Encouraging and providing incentives for customers to reduce their need for electricity – called demand-side management (DSM) – can be a lower cost alternative to buying energy or building power stations, especially if consumption can be reduced at peak hours. The Committee investigated and supported three DSM programs that were proposed by PacifiCorp for the summer of 2003. The programs provided cash incentives to encourage residential and small business customers to do the following:
 1. Replace and recycle old refrigerators with new, more energy-efficient ones.
 2. Purchase higher-efficiency evaporative and central air conditioning systems.
 3. Allow PacifiCorp to install a radio switch on their central air conditioners and remotely turn them off for short periods during hot afternoons to reduce overall electricity usage.

A Task Force has been exploring ways of encouraging large industrial and commercial customers to shift their use of electricity to off-peak periods. The Committee is an active participant, and hopes that a formula can be found to reduce costs for everybody. The Committee also hired experts to help it examine an application filed by PacifiCorp to recover costs incurred for these and other DSM programs, and participated in negotiations with PacifiCorp and other parties to protect Utah customers.

- In an ongoing process, the Committee examined and commented on PacifiCorp's latest Integrated Resource Plan (IRP). Each IRP forecasts the likely demand for power up to twenty years into the future, examines options for providing the needed electricity and identifies the least costly alternatives. The 2003 IRP projects that PacifiCorp will require an additional 4000 megawatts over the next ten years. PacifiCorp has met often with customer and supplier representatives to discuss fair ways to acquire additional power most economically. The Committee has both encouraged that process and taken an active role in it. As a result of the Committee's efforts, the procedures for purchasing energy that PacifiCorp has developed are more open to scrutiny and are more likely to encourage potential suppliers to offer electricity to the Company. Although these results are probably unquantifiable, they should help to keep electricity bills down for customers.
- During 2002, the Home Electric Lifeline Program (HELP) assisted more than 24,000 households. PacifiCorp's low-income Utah customers are eligible to receive an \$8 monthly credit on their electricity bills. More than 110 customers who also need electrically powered life support equipment in their homes received an additional \$10 credit each month. The Committee has consistently supported HELP, which is funded by a line item charge on all PacifiCorp bills—residential customers pay 12 cents a month, small commercial customers pay 27 cents and agricultural irrigation customers 62 cents.
- Throughout the year, the Committee participated in multi-state discussions aimed at determining how PacifiCorp's rates can most fairly be set in the six states it serves: California, Idaho, Oregon, Utah, Washington and Wyoming.

Natural Gas

- Questar Gas Company (QGC) filed for a \$23 million rate increase in May 2002. Based on testimony provided by the Committee and other intervening parties, the Commission approved an increase of just over \$11 million, less than half of the amount sought by the Company.
- During October 2000, the Committee appealed a decision of the Public Service Commission to the Utah Supreme Court. During the 1990s, Questar Pipeline Company (QPC) agreed to accept gas from an area near Price, Utah, and transport it on its interstate pipeline. The agreement meant that the Wasatch Front would get the new gas, which has different combustion qualities, instead of the kind it had previously received, which came mostly from the Uintah Basin. QGC expressed concerns that the new gas might not burn safely in furnaces and water heaters set up for the traditional kind of gas. It asked the Commission for a rate increase to pay the cost of processing the new gas for ten years while appliances were adjusted. In August 2000, the Commission allowed the Company to increase its rates by \$5 million a year. The Committee said QGC shouldn't be allowed to charge its customers to solve a problem QPC had caused because it wanted to earn money by transporting the new gas. The Committee, upon learning that the managers of

the two – supposedly separate – companies were actually the same people, filed an appeal with the Utah Supreme Court in August 2000. The Court heard oral arguments in June, and reversed the Commission's Order on 1 August 2003. The Committee has asked the Commission to reduce QGC's rates by \$5 million a year and refund more than \$20 million that the Company has already collected from customers.

- During 2002, the Weatherization Program helped to reduce the energy needs of more than 460 low-income families. Utah's natural gas customers contribute \$250,000 (less than 1 cent in every \$20 of their gas bills) each year to repair or replace furnaces and water heaters, and insulate and draft-proof homes, for those least able to afford their energy bills. The Committee has consistently supported this program, which helps reduce costs for all customers by reducing the overall demand for natural gas. It is expected that at least 600 more homes will be weatherized during 2003.

Telecommunications

- In August 2002, Qwest asked the Commission to approve the sale of its directory business, QwestDex. Telephone companies originally compiled directories to help their customers contact one another, and to reduce operator assistance costs. They were allowed to recover the investments they made and the costs they incurred in providing this service to their customers in the rates they charged. More recently, sales of advertising in the Yellow Pages have become extremely profitable. The Committee has consistently argued that those profits should offset the other costs of local telephone service. The Commission and the Supreme Court of Utah have upheld that view and, consequently, Qwest's rates have been some \$30 million a year lower than they otherwise would be as a result. Primarily, as a result of the Committee's efforts, Qwest agreed that it would maintain the reduced rates and would return an additional \$22 million from the proceeds of the sale to its Utah customers. Hence, Qwest residential and small business customers will receive a one-time credit of \$34.25 on their monthly bill in September or October 2003.
- In September 2002, Qwest asked the Commission to allow it to raise or lower its prices, at very short notice and without the customary detailed oversight, where there are competing local telephone service providers. The Commission agreed with the Committee's recommendations that pricing flexibility should only be permitted in those specific localities where true competition exists and be subject to caps to prevent future increases above present rates.
- In May 2002, the Uintah Basin Telecom Association and its wholly owned subsidiary, UBET Telecom Inc, asked the Commission to approve rates for extended area service (where flat rates replace toll charges) between the two companies' exchanges. The Committee pointed out that the companies had not shown that the proposed rates were cost based, and it appeared that Duchesne, Roosevelt and Vernal customers would be subsidizing those in the smaller communities of the Uintah Basin. The Commission

allowed the proposal to proceed, but adopted the Committee's recommendation that there should be a thorough traffic and cost study, and that rates should then be trued up so they are fair to all the customers involved.

Legislation Updates

- During the 2003 General Session, and the 2002 and 2003 Interim sessions, of the Utah State Legislature, the Committee commented on proposed legislation that might impact residential and small commercial utility customers. Despite the Committee's best efforts, Senate Bill 61 passed.
- The Committee also pointed out the likely cost to customers of bills encouraging renewable energy (more than \$100 million over the first 10 years) and increasing 911 taxes on telephone bills (about \$10 million a year). Legislators responded positively in both these cases.
- The Commission lacks authority to oversee the billing and customer service practices of cellular and long-distance providers. An increasing number of customers are dissatisfied, but unsure how to get their complaints resolved effectively. The Committee supported a Bill intended to enable the Commission to facilitate an effective process. Although it did not pass, the problem has received further consideration during the 2003 Interim Session.
- The Federal Energy Regulatory Commission has proposed rules to establish a Standard Market Design for electricity transmission across the United States. The Committee has repeatedly collaborated with agencies in a number of other states to explain how the proposed rules would increase costs and reduce reliability for customers.

Division of Consumer Protection

The highest priority of the Utah Division of Consumer Protection is to provide Utahns with the information and skills they need to avoid consumer fraud and abuse. Consumer education is the means to this end; and during 2003, the Division stepped up its efforts to teach consumers to protect themselves.

Educational Opportunities

- The Division's consumer advocates looked for opportunities to provide information and education to Utahns statewide. Upon request, consumer protection information has been provided to civic clubs, churches, school organizations, and senior citizen centers for general distribution as well as for special events. The Division is available to make presentations and assist in conducting seminars as well as providing one-on-one assistance with the filing of formal consumer complaints.
- The Division works in cooperation with organizations and agencies such as the American Association of Retired Persons (AARP), the Federal Trade Commission (FTC) and the Consumer Product Safety Commission (CPSC) in promoting numerous consumer protection and safety initiatives. The Division also actively utilizes the mass media, i.e., radio, television and newspapers, to inform and educate the public about important consumer issues, concerns and programs. Numerous public service announcements aired on KUTV, KTVX, KSL, Fox and cable during the second and forth quarter of the fiscal year.
- The Division serves as the point of registration and regulation for charities, non-profit organizations, professional fund raising companies, health spas, credit service organizations and schools offering post secondary education. The primary role of the Division in this area is to provide consumers a single, convenient point of contact to obtain accurate information regarding the activities of organizations soliciting funds and providing services to Utah.

The backbone of the Consumer Protection Division's efforts—and the basis for its success—is its commitment to resolve consumer issues by providing user-friendly access.

User-Friendly Access

- If a consumer has a dispute with a business, he or she can call the Division's toll-free hotline at 1-800-721-7233 from anywhere within the state.
- A written complaint form can be obtained from the Division's Web site or be sent to the consumer's home. When the complaint form is returned, it is reviewed and determined whether the Division has the authority to assist the consumer. All complaints filed with the Division are responded to, whether it is by contact with an investigator or a letter to

the complainant informing them that their complaint has been referred to another agency, state or federal, who has authority over the elements of the complaint. If it is determined that the Division has jurisdiction, the complaint is assigned to an investigator.

Investigator Role

The role of a Division investigator is essentially twofold:

(1) Enforce Utah consumer protection statutes and rules

When an investigator gathers sufficient information and it is determined a willful violation of consumer regulations has occurred, the Division's initial response is the issuance of an administrative citation. This citation, with a potential penalty of \$1,000 per violation, triggers a process that can ultimately lead to a formal hearing before an Administrative Law judge and a formal ruling against, or in favor of, the business charged with the alleged violation.

(2) Act as a facilitator and mediator for the resolution of a dispute

In some cases, as the investigator gathers information, it is determined that the complaint was not a violation of the statutes enforced by the Division. Often in these cases, the Division plays a role in the consumer and business coming together and reaching an equitable settlement of the dispute. This resolution might range from a voluntary refund, the replacement of a product or simply both sides better understanding the basis of the dispute. These cases provide the Division the opportunity for one-on-one education with the business regarding their obligations to consumers. If calculable, the amount of money saved by consumers and businesses in potential litigation costs as a result of this mediation by Division personnel would be substantial.

The volume of the Division's activity attests to its utility and commitment. During FY 2003, the Division received 3,235 complaints. Of the complaints pending at the beginning of or received during FY 2003, the Division closed—either through voluntary compliance, a finding of no violation or the issuance of a citation—2,600 individual cases. As a result of the Division's actions, consumers received \$1,046,790 in victim restitution. The Division collected nearly \$194,000 in fines.

July 1, 2002—June 30, 2003

| | |
|--|-------|
| Complaints Reported..... | 3,235 |
| Administrative & Civil Cases Closed..... | 2,600 |
| Criminal Cases Closed..... | 4 |

Changing Trends

During the past year, trends in the type of consumer complaints have changed. While traditional complaints such as automobile repair problems, collection agencies and debt collector issues, travel scams and work at home schemes continue to plague Utah consumers, more and more fraudulent activity is being perpetrated through the Internet. As the Internet becomes a tool for home-based businesses, it has become a growing vehicle for consumers to fall prey to scams.

Top Ten Utah Scams

1. Mentoring & Coaching Programs
2. Telemarketing/Canadian Sweepstakes & Lottery Scams
3. Home-Based Business Opportunities
4. Mail Order/Advertising
5. Cellular Phone Problems
6. Internet Auction/Offers
7. Auto Repair & Used Car Sales
8. Charitable Solicitations
9. "Do Not Call" Complaints/Unsolicited Faxes
10. Unauthorized Billings/Medical/Dental Billing Fraud

During the past fiscal year, the Division noted a dramatic increase in the number of complaints regarding the sale and performance of products. In many cases, these products have been marketed through Internet pop-up ads claiming to help eliminate smoking, reduce weight and even enhance physical appearance.

Internet Scam Techniques

- **Storefronts:** Via the Internet, many companies offer free or low-cost Internet "storefronts." These online businesses are often promoted under the guise of being an easy, low-effort means to sell online. The offering company provides the Web site, the product inventory, shipping, and is responsible for credit card transactions. What the would-be businessperson is not told, however, is that the same products, often of debatable value and demand, are being offered to hundreds—perhaps thousands—of others.
- **Contracts:** After the "store" has been established, companies offering marketing services and "training" then contact the business owner. Falling prey to the ruse that the best way to generate traffic to the Web-based business is through marketing techniques and "coaching," the consumer is lured into entering into contracts, of considerable amounts, for services which the Division believes have questionable benefits. Ultimately the consumer discovers that the marketing tools and coaching have little effect on developing a customer base for the Web business, the traffic that is generated does not develop into paying customers and any money spent to learn the "secret" of Internet sales is lost.

- **Seminars:** The same general fraudulent concepts are marketed in seminars touting the benefits of home-based business. These seminars purport to provide tools and training to establish and develop viable Internet businesses, often selling nothing more than other Internet business Web sites and tools.
- **Sales Pitch:** The sales pitch is inductive: “Buy these Web sites today for a fraction of their cost, turn around and sell them and money just rolls in.” Time and time again, victims who believed this was the road to riches, only to discover it was a trail of misrepresentation and deception, have contacted the Division.

“Do Not Call” Initiatives and Corollary

In an age where advertising, promotional offers and marketing campaigns seem to inundate consumers at every turn, the Division of Consumer Protection believes that there should be a refuge from what can seem to be a constant barrage of sales pitches. That place of refuge should be one’s home. With that in mind, the Division supported efforts to pass **“Do Not Call”** legislation, along with the implementation of similar rules at the national level by the Federal Trade Commission, which will dramatically reduce—if not eliminate—unwanted telemarketing calls that come to a consumer’s home.

The passage of SB194, sponsored by Senator David L. Thomas and strong support by the Utah Division of Consumer Protection, the Utah Attorney General’s Office and a variety of consumer advocacy groups, will make it illegal for telemarketers to make unsolicited calls to consumers who have registered with the federal program.

The federal “Do Not Call” initiative is designed to work in conjunction with the new Utah law. The federal program regulates calls from telemarketers whose sales calls cross state lines. The Utah program regulates calls made by Utah telemarketers who are calling Utah consumers. These two initiatives, along with the high penalties provided for violations, are expected to have a positive impact in reducing the number of Utahns who fall victim to aggressive sales techniques employed by unscrupulous telemarketers.

Companies that have been accused and charged by the Division with aggressive, improper and fraudulent sales practices include: lawn care providers, home siding and window replacement companies, and home alarm companies. The implementation of “Do Not Call” regulations will make strides to eliminate fraudulent sales practices in the following ways:

1. **Penalties of up to \$11,000 per violation are expected to make the price of doing business improperly costly to companies.**
2. **As consumers sign up for relief from telemarketing calls, it is expected that they will be more aware and perhaps suspicious when a call is received.**

A reduction of telemarketing calls does not mean there will be an end of unwanted marketing aimed at Utah consumers. It is anticipated that as unsolicited telephone calls subside, other forms of low-cost marketing will escalate. Spam email and Internet pop-up advertisements could very well be the new point of entry into homes by those looking to gain access to the wallets of Utah consumers.

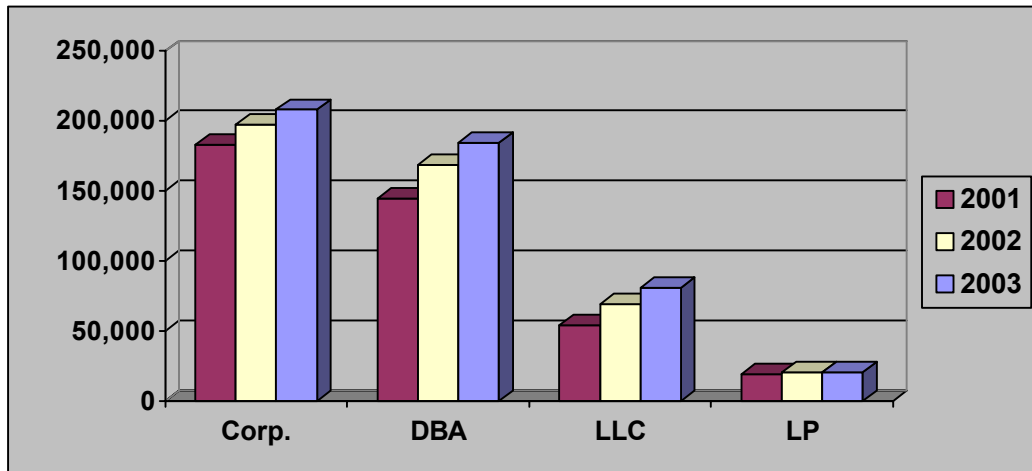


Division of Corporations and Commercial Code

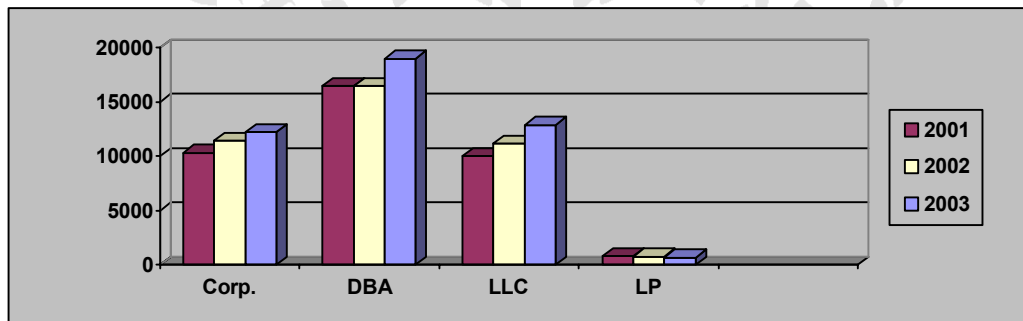
The Division has taken Governor Michael Leavitt's challenge of "e-government online, all the time" very seriously. The Division is now offering services that lend themselves to online initiatives, such as:

- Certificates of Existence
- Adoption rate for FY 2003 online business registration renewals totaled 12,902, 12% of 106,131 total renewals. The online business renewal service was launched FY 2002.
- Experimentation with large filers to offer email notices for renewals is in progress. It is anticipated that this will be a great benefit to the business community. The Division has implemented post cards for delinquency and dissolution notices. This saves valuable resources within the Division and allows the U.S. Postal Service to forward the notice if an address change is on file with them—something that has not been available with letter-style notices. More businesses are now getting their renewal notices before a dissolution notice is necessary.
- The business portal, www.business.utah.gov, a multi-agency project, offers in-depth, cradle to grave information for businesses. The site was activated June 2003 for system testing and public feedback. The official launch date is scheduled for FY 2004.
- Imaging business entity documents is another project the Division is in the process of completing. Once the 6 million documents are imaged and indexed, the Division plans to make them available online. This will greatly enhance our customer service since these documents will be available to the public to download and print copies for their business purposes.
- Uniform Commercial Code (UCC) filings are available online for UCC 1 filings. Approximately 22% (8,408) of 38,067 UCC 1 filings were done online during FY 2003—and that number continues to grow. The Division has added the ability to file CFS or agricultural liens online as well. This has been a real boon to the agricultural business community. Most certified searches are done online as well.

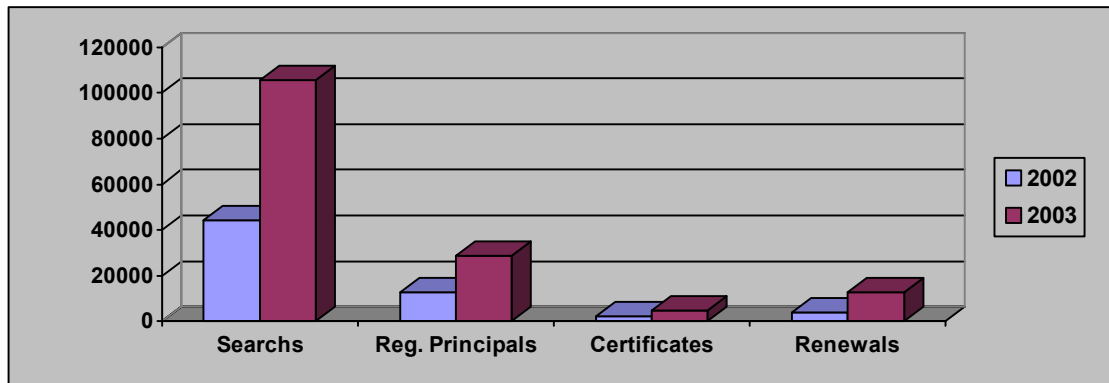
Streamlining our processes to accommodate online initiatives has resulted in greater efficiency. Division staff members examine every task and continue to develop innovative ways to improve delivery of services.

TOTAL FILINGS - FY2003

| | CORP. | DBA | LLC | LP |
|------|---------|---------|--------|--------|
| 2001 | 182,715 | 144,674 | 53,943 | 19,103 |
| 2002 | 197,737 | 168,485 | 69,281 | 19,980 |
| 2003 | 208,109 | 184,660 | 80,410 | 20,510 |

NEW FILINGS - FY2003

| | Corp. | DBA | LLC | LP |
|------|--------|--------|--------|-----|
| 2001 | 10,304 | 16,487 | 10,015 | 777 |
| 2002 | 11,421 | 16,443 | 11,173 | 730 |
| 2003 | 12,217 | 18,989 | 12,879 | 664 |

WEB SITE USAGE – FY2003

| | Searches | Reg. Principals | Certificates | Renewals |
|------|----------|-----------------|--------------|----------|
| 2002 | 44,421 | 12,880 | 2,186 | 3,913 |
| 2003 | 105,658 | 28,556 | 4,710 | 12,902 |

DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING

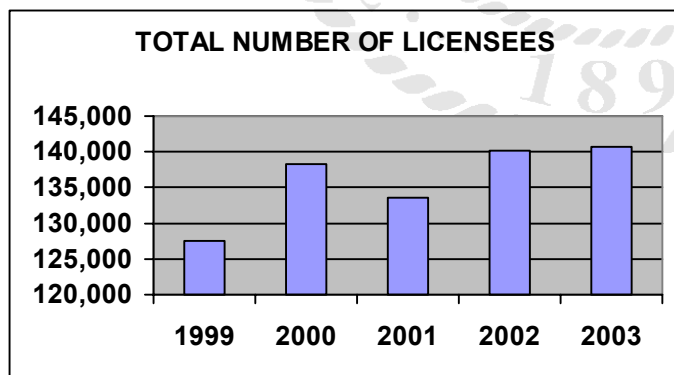
The duty of the Division of Occupational and Professional Licensing is to safeguard public health, safety and welfare through the licensing and regulation of individuals who are engaged in certain professions or occupations.

The Division licenses or registers more than 140,000 individuals in more than 100 occupational and professional classifications ranging from acupuncturists to veterinarians.

The functions of the division can be categorized into four main areas:

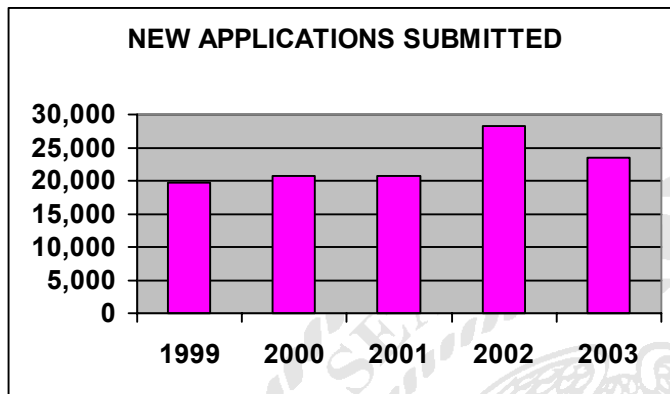
1. **Licensure**
2. **Enforcement of Professional Standards**
3. **Medical Malpractice Pre-litigation**
4. **Residence Lien Recovery Fund**

Licensure



Total Licensees

1999—127,560
2000—138,262
2001—133,517
2002—140,154
2003—140,755

**New Applications**

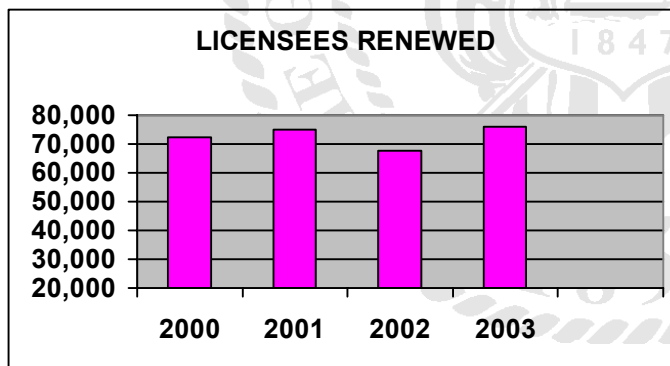
1999—19,657

2000—20,796

2001—20,669

2002—28,275

2003—23,504

**Licensees Renewed**

2000—72,197

2001—75,085

2002—67,514

2003—75,910

Total Licensees by Profession (as of 6/30/03)

(Including Temporary Licensure)

| | | | |
|---|--------|---|----------------|
| Acupuncturists | 67 | Land Surveyors | 641 |
| Advanced Practice Registered Nurses (3)* | 970 | Landscape Architects | 310 |
| Alternative Dispute Resolution Providers (3)* | 50 | Licensed Practical Nurses (2)* | 3,671 |
| Architects | 1,988 | Marriage and Family Therapists and Interns | 454 |
| Athlete Agents | 11 | Massage Therapists and Apprentices | 3,764 |
| Building Inspectors (2)* | 466 | Nail Technicians | 2,571 |
| Burglar Alarm Agents | 1,160 | Nail Technician Instructors | 30 |
| Burglar Alarm Companies | 128 | Nail Technician Schools | 8 |
| Certified Nurse Midwives (3)* | 112 | Naturopathic Physicians (3)* | 12 |
| Certified Public Accountants | 3,488 | Occupational Therapists and Assistants | 548 |
| Certified Public Accountancy Firms | 611 | Optometrists (3)* | 369 |
| Certified Registered Nurse Anesthetists | 188 | Osteopathic Physicians | 218 |
| Chiropractic Physicians | 788 | Pharmacists, Preceptors, Interns, Technicians | 4,544 |
| Construction Trades Instructors (4)* | 19 | Pharmacies (15)* | 956 |
| Contractors | 14,272 | Physical Therapists | 1,340 |
| Controlled Substance Handler | 13 | Physician Assistants | 451 |
| Controlled Substance Purchaser/Distributors | 14 | Physician/Surgeons | 7,111 |
| Cosmetologist/Barbers and Interns | 20,132 | Plumbers (4)* | 3,919 |
| Cosmetology/Barber Instructors | 905 | Podiatric Physician | 174 |
| Cosmetology/Barber Schools | 32 | Pre-need Funeral Arrangement Providers and Sales Agents | 364 |
| Deception Detection Examiners and Interns | 26 | Private Probation Providers | 41 |
| Dental Hygienists (2)* | 1,392 | Professional Counselors and Interns | 459 |
| Dentists (4)* | 2,218 | Professional Employer Organizations | 68 |
| Dietitians | 456 | Psychologists and Psychology Residents | 756 |
| Electricians (5)* | 8,385 | Radiology & Practical Technicians | 1,890 |
| Electrologists | 171 | Recreational Therapists (3)* | 687 |
| Electrologist Instructors | 3 | Registered Nurses (2)* | 17,474 |
| Electrology Schools | 0 | Respiratory Care Practitioners | 953 |
| Engineers – Professional and Structural | 6,773 | Security Companies | 63 |
| Environmental Health Scientists & In-Training | 222 | Security Personnel (2)* | 4,950 |
| Estheticians (2)* | 1,190 | Shorthand Reporters | 158 |
| Esthetician Instructors | 44 | Social Workers (3)* | 4,819 |
| Esthetics Schools | 5 | Speech-Language Pathologists & Audiologists (3)* | 588 |
| Factory Built Housing Dealers | 62 | Substance Abuse Counselors | 296 |
| Funeral Service Directors and Apprentices | 329 | Veterinarians and Interns | 545 |
| Funeral Service Establishments | 90 | TOTAL LICENCEES | 140,755 |
| Genetic Counselors | 22 | | |
| Geologists | 431 | | |
| Health Care Assistants | 7,965 | | |
| Health Facility Administrators | 270 | | |
| Hearing Instrument Specialists and Interns | 88 | | |

*Occupations having multiple licensure classifications are noted in parentheses.

Enforcement of Professional Standards

| <u>Investigations</u> | FY99 | FY00 | FY01 | FY02 | FY03 |
|---------------------------------|-------------|-------------|-------------|-------------|-------------|
| Complaints Received | 4,413 | 5,776 | 4,567 | 3,215 | 4,061 |
| Investigations Opened | 2,859 | 5,048 | 3,942 | 2,897 | 3,797 |
| Investigations Completed | 2,858 | 2,127 | 3,409 | 3,391 | 3,942 |
| Formal Administrative Filings | 190 | 171 | 208 | 327 | 324 |
| Criminal Filings - Felonies | 104 | 58 | 56 | 36 | 26 |
| Criminal Filings - Misdemeanors | 138 | 71 | 29 | 27 | 41 |
| Letters of Concern Issued | 155 | 142 | 223 | 220 | 259 |
| Citations Issued | 979 | 1,033 | 1,259 | 904 | 1,141 |
| Diversion Referrals Issued | 32 | 55 | 28 | 23 | 16 |
| Fines Collected | \$304,090 | \$375,718 | \$215,975 | \$295,451 | \$290,303 |

CONTROLLED SUBSTANCE DATABASE – FY 2003

| Number | |
|----------------------------------|--------|
| Requests for Information | 49,143 |
| Pharmacies Reporting to Database | 451 |

Medical Malpractice Pre-litigation

| <u>Pre-litigation Action</u> | FY99 | FY00 | FY01 | FY02 | FY03 |
|-------------------------------------|-------------|-------------|-------------|-------------|-------------|
| Cases Opened | 354 | 397 | 372 | 392 | 531 |
| Requests Denied | 54 | 60 | 104 | 63 | 40 |
| Hearings Scheduled | 299 | 279 | 243 | 324 | 288 |
| Cases Closed | 381 | 374 | 371 | 433 | 414 |

| <u>Pre-litigation Outcome</u> | FY00 | FY01 | FY02 | FY03 |
|--------------------------------------|-------------|-------------|-------------|-------------|
| No Merit | 174 | 160 | 230 | 221 |
| Meritorious | 28 | 34 | 33 | 30 |
| Stipulation | 59 | 52 | 52 | 84 |
| Dismissed | 63 | 53 | 43 | 84 |
| Split Decision | 46 | 54 | 67 | 41 |
| Jurisdiction Problem | 3 | 17 | 8 | 12 |
| Undecided | 2 | 1 | 0 | 0 |
| Other | 3 | 0 | 0 | 0 |

The State of Utah has, by statute, established a professional recovery program to assist chemically dependent individuals who hold professional licenses. This diversion program is entitled Utah Recovery Assistance Program (URAP). Prior to participation, program candidates must meet certain defined criteria. During the course of the program, participants undergo rehabilitation and maintenance of recovery in a confidential environment and are generally able to participate with their licensure intact.

| <u>Diversion - URAP (Utah Recovery Assistance Program)</u> | | <u>Clients Participating in URAP – FY2003</u> | |
|---|-----|--|-----------|
| Committee Meetings Conducted: | 52 | Dentist | 6 |
| Diversion Interviews Completed: | 377 | Funeral Director | 1 |
| | | Health Care Assistant | 3 |
| New Contracts Signed: | | LCSW | 2 |
| RN | 6 | LSAC | 1 |
| Physician | 5 | Nurse | 59 |
| Dentist | 3 | Physician | 14 |
| LPN | 2 | Physician Assistant | 1 |
| HCA | 1 | Podiatrist | 1 |
| APRN | 1 | Pharmacist | 5 |
| Pharmacy Tech. | 1 | Pharmacy Technician | 2 |
| Physician Asst. | 1 | Physical Therapist | 1 |
| Clients Not Accepted: | | Veterinarians | 2 |
| Physician | 1 | | |
| RN | 1 | Total | 98 |
| Clients who chose not to sign: | | | |
| Physician | 2 | | |
| LSAC | 1 | | |
| Radiology Tech. | 1 | | |
| Clients Pending: | | | |
| RN | 2 | | |
| Physician | 1 | | |
| LPN | 1 | | |
| SSW | 1 | | |
| Files Closed Successfully: | | | |
| RN | 10 | | |
| Veterinarian | 2 | | |
| LPN | 2 | | |
| Pharmacist | 2 | | |
| Dentist | 1 | | |
| LCSW | 1 | | |
| Pharmacy Tech. | 1 | | |
| Phys. Therapist | 1 | | |
| Files Closed Unsuccessfully: | | | |
| RN | 10 | | |
| Physician | 2 | | |
| HCA | 2 | | |
| LPN | 1 | | |

The Utah Residence Lien Recovery Fund (RLRF) is a Fund of “last resort” to pay suppliers or sub-contractors for work performed when general contractors fail to pay. The Fund makes the suppliers or sub-contractors “whole,” avoiding the prospect of liens being attached to homeowner residences even though they have paid the general contractor in full.

Residence Lien Recovery Fund

| FY2003 | | | CUMULATIVE | | |
|------------------|--------|----------------|------------|--------|----------------|
| | Number | Amount | | Number | Amount |
| Claims Files | 270 | \$2,715,663.51 | | 1,532 | \$9,533,275.36 |
| Claims Paid | 218 | \$1,435,701.35 | | 938 | \$4,836,595.54 |
| Claims Denied | 42 | | | 297 | |
| Claims Dismissed | 42 | | | 146 | |
| | | | | | |

| FY2003 CLAIMANT STATISTICS | | |
|-----------------------------------|--------|----------------|
| Claimant | Number | Amount Paid |
| Suppliers | 834 | \$3,193,547.37 |
| Contractors | 669 | \$1,626,520.30 |
| Laborers | 42 | \$ 16,527.87 |
| Other | 2 | \$ 0.00 |

| FUND STATUS | |
|----------------------------|-----------------------|
| | Amount |
| Investment Account Balance | \$ 105,877.55 |
| Operating Account Balance | \$2,140,973.55 |
| TOTAL | \$2,246,851.10 |

FY2003 Accomplishments**1. Controlled Substance Database**

- Received grant for use in redevelopment of software compatible with online access (to be awarded soon).
- Program has nearly 100% compliance with all Utah pharmacies required to report.

2. Internet Advancements

- a. Developed well-received online complaint module.
- b. DOPL front page is one of the most frequently accessed Web sites statewide.
- c. Usage of the online license verification system has increased significantly.
- d. With the completion of five renewal professions, the online renewal usage rate has reached 30 %, a total of 22,422.

3. Customer Service

- a. Provided a permanent front desk space in Heber Wells Building lobby for ease of customer access, increased building security, and closer proximity to the Division of Corporations for those doing business with both divisions.

4. Investigations

- a. Implemented the use of self-inspections by Utah pharmacies. Self-inspections better utilize investigatory resources and more effectively educate pharmacists on statutory requirements.
- b. Developed interactive program with construction trade officials and organizations to effectively educate people about the Division's mission.

5. Examinations

- a. Renewed our contract with Experior, a licensee-testing company to better utilize Division resources.

Division of Public Utilities

The Division of Public Utilities is an advocate for the safe, efficient and reliable operation of all public utilities within Utah. It promotes the interests of all ratepayers in obtaining reasonable levels of service at the lowest possible cost while maintaining financial viability of utilities. Additionally, the Division receives and investigates complaints against utility companies and makes recommendations for corrective action to the Utah Public Service Commission. In this era of deregulation for certain utilities, the Division assists the Commission in establishing the rules of competition. Consumers benefit from deregulation when market power is mitigated and competitive choices are available.

During FY 2003, the number of utilities regulated by the Public Service Commission (PSC) decreased, due primarily to four telephone companies discontinuing local service in Utah.

UTILITY GROWTH

| Type of Utility | FY2002 | FY2003 | Change |
|------------------|------------|------------|-----------|
| Electric | 13 | 13 | 0 |
| Natural Gas | 2 | 2 | 0 |
| Telecom – ILEC * | 21 | 21 | 0 |
| Telecom – CLEC** | 83 | 79 | -4 |
| Water and Sewer | 34 | 35 | 1 |
| Railroads | 4 | 4 | 0 |
| Total | 157 | 154 | -3 |

*Incumbent Local Exchange Carrier, i.e., Qwest

**Competitive Local Exchange Carrier(s), i.e., AT&T, XO, McLeod, etc.

The Division of Public Utilities is charged with monitoring utility compliance to PSC rules and orders, recommending rate and service levels, and handling customer complaints. During FY 2003, the number of informal complaints from utility customers processed by the Division totaled 2,378, an 18% decrease from the previous year. Significant changes included a 42% decrease in ILEC complaints, a 71% increase in CLEC complaints and a 29% decrease in electric utility complaints.

UTILITY COMPLAINTS

| Utility Complaints | FY2002 | FY2003 |
|-------------------------|--------------|--------------|
| Electric | 341 | 242 |
| Natural Gas | 482 | 371 |
| Telecom – ILEC | 1,480 | 861 |
| Telecom – CLEC | 392 | 670 |
| Telecom - Long Distance | 217 | 230 |
| Water and Sewer | 3 | 4 |
| Total | 2,915 | 2,378 |

Telecommunications

The Telecommunications section of the Division participated in numerous dockets involving pricing flexibility, the cost of the unbundled loop of the telephone network, price cap compliance, and the on-going interconnection and arbitration agreements. In spite of a tumultuous economy this past year, the Division saw only a small decrease in the number of Certificated Local Exchange Companies operating in Utah. Most impressive is the 23% decrease in complaints that the Division has processed for local telecommunications service providers due to improved quality service. Our efforts to monitor service quality remain vigilant.

One of the highlights of this year was the negotiated settlement of the QwestDex sale. The Division was involved in numerous settlement discussions, technical conferences and examined extensive discovery in this case. We were able to reach a stipulation with the involved parties that resulted in the sale of directory business for Qwest plus a \$22 million one-time credit to Utah retail consumers. We also resolved through this stipulation the long-standing dispute regarding the historic issue of Qwest customer in the directory publishing business.

Energy

The Division of Public Utilities helps the Utah Public Service Commission regulate the traditional utilities in the energy sector, i.e., electric and natural gas service. Electricity providers subject to the Division's jurisdiction include PacifiCorp, dba Utah Power, nine rural electric cooperatives, and one electric service district. There is only one operating natural gas service supplier in Utah, Questar Gas Company, that provides state regulated services. The Division also actively follows and participates in proceedings before the Federal Energy Regulatory Commission involving issues having specific relevance to Utah's energy consumers, such as interstate wholesale transportation of energy. The Pipeline Safety Group within the energy section has the mandate to investigate conditions within the state relative to the safe piping of natural gas.

Electricity

During the past fiscal year, the energy section worked on a variety of cases impacting Utah ratepayers. Utah's growth has continued leading to increased growth in energy usage with an extremely high peak load in the summer. PacifiCorp has identified that this increase is, in large part, due to increasing use of air conditioning. The Division has been working with PacifiCorp to address this problem through a variety of cases this year. One of the ways in which the peak can be dealt with is, of course, building enough capacity to provide the maximum amount of energy that Utahns may require on hottest days. This method leads to large capacity investments that will be used for only a small number of annual hours. Another method would be to reshape the peak by flattening or "shaving" it. To this end, the Division has been working with PacifiCorp to develop a number of tools to manage this growth, including interruptible and Demand Side Management (DSM) options.

The Utah Legislature passed a law that enables the Public Service Commission to enact a DSM Tariff Rider, for the purpose of collecting costs associated with DSM efforts in Utah. This rider is still being developed by PacifiCorp, the Division, and other concerned parties. In addition, the Division worked with PacifiCorp and other concerned parties to find innovative and effective DSM programs to be enacted in time for summer 2003. Among these programs are the following:

- “Cool Cash,” provides incentives for customers to purchase more efficient home cooling options.
- “Cool Keeper,” provides incentives for customers to participate in a program that allows PacifiCorp to control participating customers air conditioning load.
- Refrigerator Recycling Program, designed to get older more inefficient refrigerators out of circulation.

The Division was also instrumental in developing interruptible tariff options for PacifiCorp’s larger electric customers. This tariff is designed to induce large electric customers to be energy wise and use more electricity in periods other than the height of the daily peak demand.

Work continues in PacifiCorp’s multi-state process. This process is designed to bring continuity to PacifiCorp in terms of regulatory treatment in its six state operation. The Division has also participated in and commented on the latest round of PacifiCorp’s Integrated Resource Planning. In addition, staff participated in a certificate case for the UAMPS Payson Project, a 140 MW gas fired electric generator. Lastly, this fiscal year Division staff and other concerned parties have been examining the manner in which PacifiCorp obtains resources. Progress is being made in the area of creating rules to govern resource acquisition.

Division staff spent numerous hours working on projects that will have long-term regional and, therefore, local impact. These include:

- Participating in discussions on RTO West, the Regional Transmission Organization in which PacifiCorp, Utah’s largest electric provider, is a participant.
- Examining the proceedings before the Federal Energy Regulatory Commission (FERC) involving the Standard Market Design (SMD) Notice of Proposed Rulemaking. Division staff filed comments on aforementioned proceedings.

Natural Gas

During the past fiscal year, the energy section worked on several natural gas cases. First was a general rate case in which Questar requested a \$23 million increase in rates. After a great deal of work, several stipulations resolved most issues with the Public Service Commission deciding the outstanding issue. The result was an \$11 million increase in customer rates. Other issues in the rate case were deferred to task forces to be studied further. A DSM task force was formed to

examine weatherization and other usage reduction measures. A rate design task force was formed to examine rate spread and design issues within Questar's current model.

In addition to the general rate case and other related cases, Division staff handled two pass-through cases and numerous other auditing functions. Natural gas rates in Utah have been fluctuating somewhat widely over the last two or three years. Most of the fluctuations have been due to wholesale natural gas price volatility. Division employees continue to examine the pass-through filings as well as Questar's methods for obtaining gas in a volatile market.

Pipeline Safety

The Pipeline Safety Group derives its authority from federal statutes, which have been adopted by the State of Utah. The Group has the mandate to investigate conditions within the state relative to safety issues surrounding the piping of natural gas. Pipeline Safety works with local natural gas distribution companies within the state such as Questar Gas Company as well as municipal and intrastate transmission operators. In addition, several hundred small gas system operators, which purchase gas from a distribution company and further distribute it within their facilities, fall under the Group's jurisdiction. The Group is responsible for determining the state of these small gas systems and working with the operators to assure that the systems are either inherently safe or that some protection measures are installed to assure their safety against leaks.

Pipeline Safety personnel conduct in-depth inspections of these operators on an annual basis. These inspections assure that operator procedures and operations are consistent with federal regulations for safe functioning of natural gas systems.

Since the PSC regulations for pipeline safety were changed in 1996 to include jurisdiction over schools, hospitals, and other high-risk facilities, Pipeline Safety personnel have initiated programs at most of the school districts in Utah to correct any safety-related issues with natural gas piping. Most of this work has now been completed, particularly in the larger school districts where the risk is greatest. Work is well advanced on establishment of remedial measures at those hospitals and nursing homes where such actions were found to be necessary to bring natural gas systems into compliance with federal and state regulations.

Pipeline Safety work, regarding apartment complexes and other similar facilities, continues to result in modifications to those gas systems found to be deficient in safety of gas piping. Wherever possible, Pipeline Safety personnel recommend that underground steel piping be relocated above ground, inasmuch as this method of deficiency remediation generally minimizes cost and complexity of future operations.

Pipeline Safety inspectors have conducted inspections to determine the need for remediation of pipeline safety deficiencies at all state-owned facilities. Work is now progressing to establish contracts through the State Division of Purchasing and General Services, which all state facilities can access, to provide steel pipe corrosion protection and other services required under the law to correct any deficiencies.

In October of 2002, Pipeline Safety applied to the Federal Office of Pipeline Safety for a waiver of certain federal regulations to allow Questar Gas Company to set up a test installation of an experimental plastic pipe in a rural area, which will allow an operating pressure of 200 pounds per square inch. Current federal regulations now allow a maximum of 100 pounds per square inch operating pressure to be used with plastic pipe. The waiver was granted and Questar completed its installation of the experimental pipe during June 2003. Test sections will be removed periodically from the pipe installation and analyzed at the Gas Technology Institute in Des Plaines, Illinois to provide data on the efficacy of using the pipe in long-term installations at the higher pressure. The ultimate goal of the testing program in Utah and in other states will be to amend federal regulations to allow routine use of the higher-pressure pipe in situations where its employment would be desirable because of lower cost and ease of installation and maintenance.

Results of federal inspections of our work consistently place the Utah Pipeline Safety Group in the highest tier of federal performance criteria, which translates into Utah receiving the maximum amount of funds available through the Federal Pipeline Safety program.

REAL ESTATE

The Utah Division of Real Estate works toward improving the quality of service rendered to the public, the licensees it regulates in real estate, appraising, and mortgage lending, and the applicants for such licenses. Our goal is first to protect the public, while being responsive to the professional needs of licensees and applicants.

The Utah Division of Real Estate focuses on three main areas of responsibility:

1. **Licensure** (registration/certification)
 - a. Establish standards and qualifications for licensure within the real estate professions.
 - b. Establish and maintain a system through which an individual may qualify and apply for licensure.
 - c. Ensure that licensees comply with requirements of the profession.
2. **Education**
 - a. The Division provides ongoing education to the real estate community and the public on the most recent rules governing each of the three industries, as well as issues that affect consumers and the public. The Division's primary duty is to protect the public, while promoting commerce.
3. **Enforcement**
 - a. Investigate allegations of unlawful, unethical or unprofessional conduct by licensees.
 - b. Initiate administrative action against an individual's license, if allegations are verified and constitute a violation. The Division may initiate administrative or criminal action against an individual who is engaged in the practice of a profession without licensure.

Licensure

As of the end of June 2003, Utah had a total of 11,020 mortgage lender registrants with 16,223 real estate licensees; 991 appraiser licensees; 9,383 individual residential mortgage lenders and 1,637 mortgage lender entities.

| | FY 00 | FY01 | FY 02 | FY 03 |
|-------------------------|--------------|-------------|--------------|--------------|
| Appraiser | 1,781 | 999 | 1,003 | 991 |
| Real Estate | 14,624 | 14,762 | 15,260 | 16,223 |
| Mortgage Brokers | ---- | 1,227 | 7,709 | 11,020 |

Education

For the real estate and appraising industries, the Division is charged with certifying courses and providers of pre-licensing education and, for real estate only, certifying continuing education courses and providers.

CERTIFICATION PROGRAMS

| <i>F Y 2003</i> | <i>Certified</i> |
|---|-------------------------|
| Educational Programs | 27 |
| Continuing Education Classes | 371* |
| Pre-Licensing Real Estate Instructors | 35 |
| Real Estate Continuing Education Instructors | 192 |
| Appraiser Instructors | 23 |
| * 28 were distance education courses | |

The Division also provides courses and information directly to the licensees involved in the real estate and appraising industries. During the last fiscal year, the Division published six separate issues of industry-specific newsletters mailed to licensees. The Division sponsored an Instructor Development Workshop, to which all real estate and appraiser instructors were invited. The workshop was a two-day activity, and included presentations by nationally renowned real estate educators.

The Division is charged with administering pre-licensing examinations for real estate licensees and for appraisers. (There is currently no examination requirement for mortgage brokers, although one will come shortly – see below). During the past fiscal year 3,066 real estate agent exams were given, 218 broker exams were given, and 82 appraiser exams were given as follows: 22 for Licensed Appraiser candidates, 40 for Certified Residential Appraiser candidates, and 20 for Certified General Appraiser candidates.

Enforcement

One of the major duties of the Division of Real Estate is protecting the public through the enforcement of real estate, appraiser, and mortgage lender rules and regulations.

The enforcement staff of the Division is responsible for the following:

- Reviewing each complaint received.
- Making an initial determination as to whether or not there appears to be a violation of real estate licensing law or regulation alleged.
- Assigning cases of violation to a Division investigator or auditor trained and experienced in the relevant subject matter. Where there is evidence of violation of licensing law or regulation, the case is prosecuted through a formal or informal hearing before the applicable licensing commission or board.
- Dismissing cases that do not appear to be in violation of licensing law or regulation.

Perhaps the Division's most noteworthy FY2003 achievement has been the reduction of its investigative caseload to less than 100 appraiser cases and to less than 250 real estate cases.

| | FY 2002 | FY 2003 |
|--|----------------|----------------|
| Written Complaints | | |
| Real Estate | 158 | 275 |
| Appraiser | 173 | 91 |
| Mortgage | 105 | 143 |
| Complaints Investigated | FY 2002 | FY 2003 |
| Real Estate | 93 | 113 |
| Appraiser | 98 | 77 |
| Mortgage | 46 | 41 |
| Investigations Closed | FY 2002 | FY 2003 |
| Real Estate | 141 | 204 |
| Appraiser | 192 | 185 |
| Mortgage | 24 | 33 |
| Licensing/Renewal Investigations Closed | FY 2002 | FY 2003 |
| Real Estate | 65 | 44 |
| Appraiser | 31 | 9 |
| Mortgage | 19 | 31 |
| Cases pending Attorney Gen. Review | FY 2002 | FY 2003 |
| Real Estate | 24 | 21 |
| Appraiser | 10 | 3 |
| Mortgage | 2 | 0 |
| Cases pending Division Review | FY 2002 | FY 2003 |
| Real Estate | 62 | 7 |
| Appraiser | 21 | 7 |
| Mortgage | 6 | 0 |
| Total Open Cases | FY 2002 | FY 2003 |
| Real Estate | 291 | 200 |
| Appraiser | 195 | 91 |
| Mortgage | 36 | 44 |
| Active Investigations | FY 2002 | FY 2003 |
| Real Estate | 182 | 161 |
| Appraiser | 160 | 78 |
| Mortgage | 23 | 40 |

During the past fiscal year, as in the year before, the Enforcement Section of the Division responded to a substantial increase in the incidence of residential mortgage loan fraud. Through the Division's investigative efforts, several appraisers who were involved in improper loan transactions surrendered their licenses to the Division in lieu of revocation, or have otherwise been disciplined.

Updates

- **REAL ESTATE PURCHASE CONTRACT (REPC)**

The Division Director worked closely with the Attorney General's Office and the Commission to formulate necessary updates to the state-approved REPC form, which is used for almost all home purchases in the state. The Commission in June of 2003 preliminarily approved the new form, and it will likely be mandatory for use beginning January 1, 2004.

- **LICENSING/ CERTIFYING NEW APPRAISERS**

In 2001 Utah's appraiser law was amended to eliminate the classification of Registered Appraiser (essentially intended as a training classification) as of May 2, 2001. Approximately 175 of the 500 Registered Appraisers applied to be licensed or certified, and most were granted. A new concern arose, especially in rural areas, that perhaps the pendulum had swung too far and made it too difficult to qualify as an appraiser. The Board and Division held many discussions in monthly public Board meetings, with the Utah Appraisers Association, about streamlining the qualification process, starting with the proposal to reduce the number of supervisor-accompanied inspection points required for licensure from 400 to 100. The Board held a public input session to discuss those issues. About 50 interested parties attended and about 15 persons commented. The Board is seeking to find the balance between sufficient requirements to qualify new appraisers and so many requirements as to be unduly burdensome.

- **REGULATING A NEW INDUSTRY**

In 2000 the Utah Residential Mortgage Practices Act (URMPA) was enacted, requiring those extending mortgage loans on Utah residences to register with the Division. The flow of mortgage lender applications, for both individuals and entities, has again continued at surprisingly high rates this fiscal year. The number of registered individuals now approaches 10,000.

The legislature also enacted a major amendment to URMPA, early 2003, requiring passage of a qualification examination for new applicants beginning on January 1, 2004, and requiring passage of the exam beginning January 1, 2005 for those who were registered before January 1, 2004. The Act also changes the registration to a license and requires Continuing Education (CE) for all licensees beginning January 1, 2004. The annual, hourly CE requirement will be set by the Mortgage Commission. For more details, please look up HB277S on the Utah Legislature's Web site at www.le.state.ut.us.

Division of Securities

During the past year, the securities industry continued to experience large volatility in market value due to economic uncertainty. Symptomatic of this uncertainty, the number of stockbrokers licensed in Utah has decreased for the second year in a row. The Division of Securities issued 81,297 licenses of which 76,241 licenses were for broker-dealer agents, otherwise known as stockbrokers. The vast majority of these licensees are not residents of the state. Rather, about 90% of Utah's licensed stockbrokers live on the east coast.

| <u>Licenses</u> | <u>FY 99</u> | <u>FY 00</u> | <u>FY 01</u> | <u>FY 02</u> | <u>FY 03</u> |
|--------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Broker-Dealers | 1,703 | 1,878 | 2,304 | 1,868 | 1,753 |
| Broker-Dealer Agents | 70,482 | 84,623 | 94,715 | 82,945 | 76,241 |
| Investment Advisers | 116 | 121 | 142 | 129 | 134 |
| Federal Covered Advisers | 428 | 456 | 525 | 588 | 609 |
| Representatives | 1,953 | 1,683 | 1,937 | 2,013 | 2,239 |
| Certified Dealers | 19 | 21 | 22 | 20 | 25 |
| Certified Dealer Agents | 88 | 82 | 96 | 97 | 82 |
| Issuer Agents | 107 | 130 | 169 | 196 | 214 |
| Total | 74,902 | 88,994 | 99,910 | 87,856 | 81,215 |

The Division completed a major investigation involving conflicts of interests of securities analysts at one of the major investment banks. This investigation was part of a larger joint investigation involving the states, the Securities and Exchange Commission (SEC), the National Association of Securities Dealers (NASD) and the New York Stock Exchange (NYSE), in which the misconduct of securities analysts were targeted at 12 large investment banks. The Division was a major participant in the negotiations that led to a global settlement between 10 major firms and the 50 states, the SEC, the NASD and the NYSE. Collectively, the firms agreed to pay penalties totaling \$1.4 billion and agreed to a long list of reforms which were designed to separate investment banking from research and limit the pressure from investment banking on research analysts. The historic settlement will help restore investor confidence, rectify many past wrongs, and arm injured investors with information they need to recover some of their losses.

During this same time, the Division of Securities continued its strong enforcement program. The Division received 175 complaints and the Division's investigations resulted in 46 felony criminal filings and 25 felony convictions with more cases in the process. The Division also brought 118 administrative actions and issued 71 Orders to Show Cause and 34 Cease and Desist Orders. The Division recovered or obtained recovery orders representing more than \$5 million of investor losses and the Division collected fines totaling nearly \$800,000.

UTAH DIVISION OF SECURITIES STATISTICS

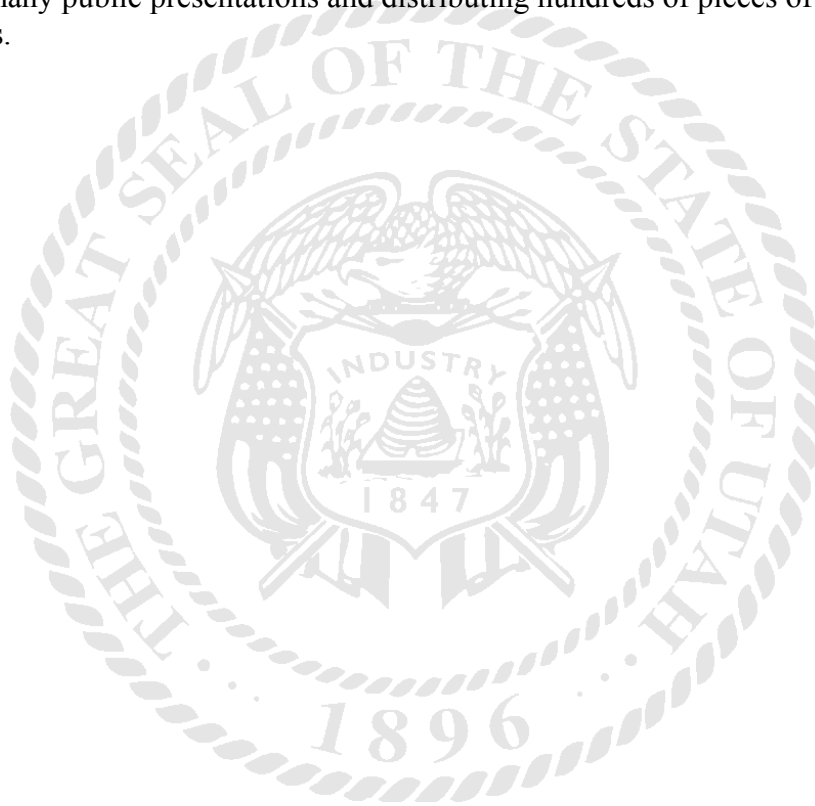
| <u>Enforcement</u> | <u>FY 99</u> | <u>FY 00</u> | <u>FY 01</u> | <u>FY 02</u> | <u>FY 03</u> |
|-----------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Complaints Received | 206 | 106 | 110 | 172 | 175 |
| Cases Opened | 136 | 112 | 89 | 106 | 104 |
| Cases Closed | 160 | 66 | 73 | 118 | 123 |
| Administrative Cases | | | | | |
| Cases Filed | 37 | 80 | 155 | 141 | 118 |
| Orders to Show Cause | 15 | 25 | 29 | 65 | 71 |
| Cease and Desist Orders | 5 | 11 | 3 | 24 | 34 |
| Stipulated Settlements | 18 | 22 | 47 | 20 | 37 |
| Denials and Revocations | 3 | 14 | 29 | 26 | 22 |
| Civil Cases | | | | | |
| Lawsuits filed | 0 | 1 | 0 | 1 | 0 |
| Judgments | 1 | 0 | 1 | 0 | 0 |
| Criminal Cases | | | | | |
| Criminal Charges Filed | 24 | 50 | 35 | 66 | 46 |
| Convictions | 23 | 28 | 15 | 30 | 25 |
| Audits | 31 | 20 | 32 | 28 | 41 |
| Fines Paid | \$181,026 | \$241,200 | \$155,620 | \$51,943 | \$782,341 |
| Funds Recovered | \$11,467,399 | \$4,256,132 | \$7,189,526 | \$16,582,868 | \$5,191,923 |

| <u>Securities Filings</u> | <u>FY 99</u> | <u>FY 00</u> | <u>FY 01</u> | <u>FY 02</u> | <u>FY 03</u> |
|----------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Registrations | | | | | |
| Coordination | 134 | 148 | 125 | 127 | 125 |
| Qualification | 5 | 8 | 3 | 1 | 2 |
| Exemptions | 223 | 191 | 86 | 68 | 58 |
| Opinion/No-Action Letters | 12 | 6 | 12 | 3 | 6 |
| Mutual Funds | 3,951 | 4,215 | 4,413 | 3,915 | 4,184 |
| Rule 506 | 327 | 508 | 484 | 412 | 437 |
| Total | 4,652 | 5,076 | 5,123 | 4,526 | 4,812 |

Education

The Division continues to be involved in providing investor education opportunities by:

- Participating on the committee established by the Utah State Office of Education to create high school curriculum for a new course on financial literacy that was mandated during the past legislative session.
- Working jointly with the Utah Council on Economic Education.
- Co-sponsoring the Stock Market Game for Utah's junior high and high school students.
- Sponsoring the Wayne Brown Institute's Venture Capital Conference.
- Giving many public presentations and distributing hundreds of pieces of educational materials.



2003 LEGISLATIVE HIGHLIGHTS

Division of Corporations and Commercial Code

- **HB 175 - Management of Notaries Public by Lt. Governor**
The most significant Legislative action this year was the move of the Notary Public Program from the Utah Department of Commerce, Division of Corporations and Commercial Code to the Lt. Governor's Office. This is a move that was greatly needed. The Authentication Office, which prepares apostilles, is located in the Lt. Governor's Office. Since applying an apostille or authentication is another part of the notary process, it was reasonable that the Notary Public Program be combined with that office.
- **SB 78 - Repeal of Trading Stamp Regulation**
The Trading Stamp Statute was repealed during the 2003 Legislative Session. Since there was no activity with this type of filing for more than ten years, it was logical to repeal the statute.

Division of Occupational and Professional Licensing (DOPL)

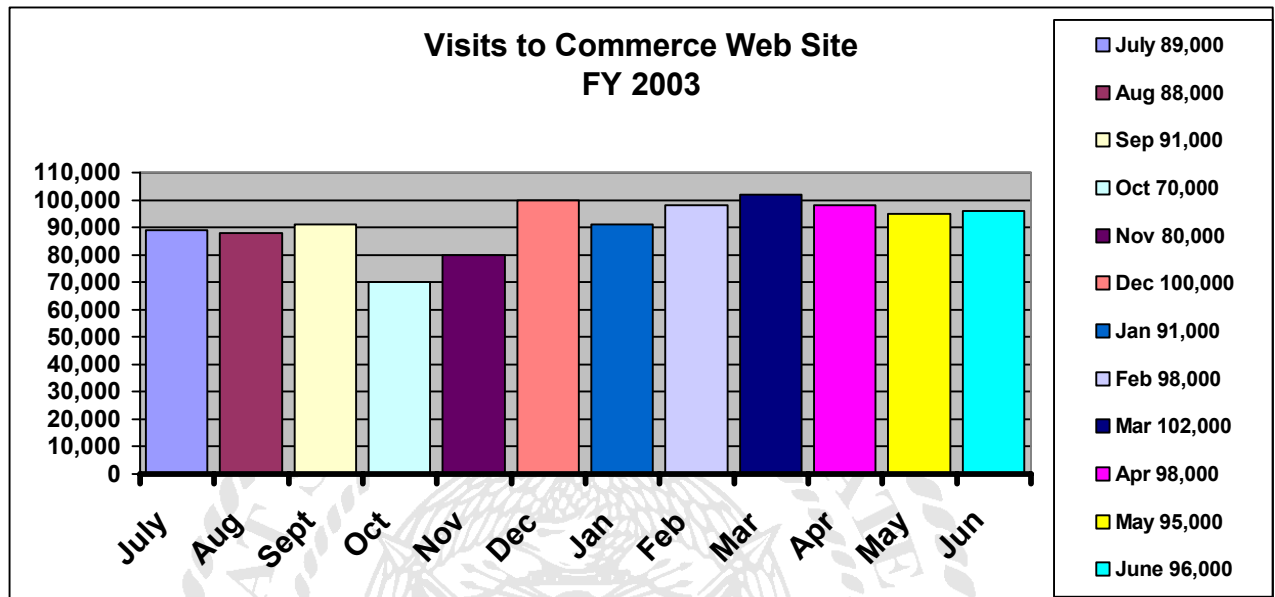
- **HB 48** modified the Utah Construction Trade Licensing Act to require compliance agencies to notify DOPL when it issues building permits to persons building homes under the owner-builder exemption from licensure.
- **HB 160** modified the Division of Occupational and Professional Licensing Act by adding an exemption from licensure when a national, state, or local emergency is declared and amending certain prescription drug dispensing rules when emergencies are declared. It also authorized local departments of health to investigate suspected bioterrorism and diseases and to provide public health assistance in a declared emergency. Additionally, it provided limited immunity from civil damages for governmental entities and certain health care professionals responding to a declared emergency. This new legislation was completed from first draft to enrollment in approximately one month.
- **SB 53** modified the Utah Controlled Substance Act by adding gamma hydroxy butyrate (GHB), which is used in an FDA-approved formulation, thereby providing Utah patients with access to this medication. It also provided for existing fine money to be returned to DOPL for operation of the Controlled Substance Database program.

- SB 67 required the Occupational and Professional Licensure Review Committee of the Legislature to study and submit findings regarding the potential of deregulating certain professions, combining certain licensing boards, and transferring some professions to other state agencies.
- SB 83 allowed diversion in licensee disciplinary matters as well as for self-referrals and defines and provided for the extension and termination of a diversion agreement. It also provided that for a licensee who fails diversion to move directly to monitored probation, thereby increasing public protection.
- SB 88 modified the Security Personnel Licensing Act to include citation authority, simplifying the investigative process for quicker handling of security personnel issues and reducing the completion time to 4-6 weeks.
- SB 91 eliminated the Preneed Funeral Arrangement Licensing Board and transferred the duties and responsibilities to the Board of Funeral Service, eliminating duplicate legislation.

Division of Securities

- SB 67 changed the authority of the Securities Advisory Board with respect to certain administrative actions.
- HB 4 added “Viatical Settlement Interests” to the definition of the term “Security.”
- HB 290 created a new section which authorizes the Division to conduct fairness hearings for certain exchanges of securities which will enable companies that do mergers to qualify for a federal exemption from registration under section 3(a)(10) of the Securities Act of 1933. This is a significant piece of legislation that could lead to thousands of dollars in savings for companies that elect to take advantage of this new procedure in Utah. The staff of the Division has begun the process of writing rules to begin implementation of this new statute.

WEB TRENDS



General Statistics

| | | |
|--------------|---------------------------------|--------------|
| Hits | Entire Site (Successful) | 37,611,089 |
| | Average Per Day | 102,500 |
| Transactions | Uniform Commercial Code Filings | 8,408 (22%) |
| | Corporations Business Renewals | 12,902 (12%) |
| | DOPL License Renewals | 22,422 (30%) |

FINANCIAL SUMMARY

| Department Expenditures | FY2003 Actual |
|---|---------------|
| Administration | \$ 2,274,346 |
| DOPL | 5,609,233 |
| Securities | 1,178,907 |
| Consumer Protection | 695,299 |
| Corporations | 1,681,674 |
| Real Estate | 1,203,698 |
| Public Utilities | 2,721,389 |
| Committee of Consumer Services | 617,785 |
| Building Rent | 217,583 |
| | |
| Subtotal | 16,199,914 |
| | |
| Real Estate Education Fund | 140,324 |
| Public Utilities Professional & Technical | 21,423 |
| Committee of Consumer Services Professional & Technical | 560,337 |
| | |
| Total | \$16,921,998 |